IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Revision No.2131 of 2007
Date of decision: January 17, 2007.

Raj Kumar

...**Petitioner(s)**

v.

State of Punjab

...**Respondent(s)**

Present: Shri Dalbir Singh Pheruman, Advocate for the petitioner.

Shri B.S. Baath, Assistant Advocate General, Punjab
for the respondent-State.

Surya Kant, J. (Oral)

This order shall dispose of Criminal Revision Nos.2131 and 2414 of 2006 as both have arisen out of the same impugned order, dated August 10, 2006, passed by the learned Sessions Judge, Hoshiarpur framing charges against the petitioners under section 489-A, 489-B, 489-D, 201 IPC.

The primary contention raised on behalf of the petitioners is that not an iota of evidence is referred to in the report under section 173 Cr.P.C. except the confessional statement purported to have been made by Avtar Singh @ Mau, who being their co-accused, his confessional statement is inadmissible against the petitioners.

The case has been registered by the police on the basis of a secret information to the effect that fake currency notes of Rs.500/- were being prepared and deposited by the accused persons in the Bank in connivance with each other. An incident dated 15th April, 2005 triggered off the leakage of information to the police when an attempt to deposit the fake currency notes in the Bank was allegedly made but having been confronted by the Manager of the Bank that the currency notes were fake, the two petitioners herein are alleged to have burnt those currency notes at the petrol pump thereby attracting section 201 IPC.

On a perusal of the report under section 173 Cr.P.C., it is apparent that in addition to the alleged confessional statement of Avtar Singh, reliance has also been placed upon the computer which was used for preparation of the fake currency. A part of the fake currency is also stated to have been taken into possession through recovery memo.

It cannot be said that it is a case of no evidence and/or the learned Sessions Judge could not have even formed a *prima-facie* opinion regarding commission of the offence so as to proceed with the trial. In the backdrop of the allegations that the accused persons, in connivance with each other, counterfeited the currency notes and/or attempted to deposit the same in the Bank as genuine currency, knowing the same to be forged/counterfeit, framing of charges against them jointly under section 489-A, 489-B, 489-D, 201 IPC cannot be termed *per-se* illegal.

Learned Counsel for the petitioners, however, rely upon a judgement of the Hon'ble Supreme Court in the case of **Suresh Budharmal Kalani @ Pappu Kalani v. State of Maharashtra**, 1998(4) RCR (Crl.) 433 to contend that the charges could be framed after looking into the material collected during investigation, which can be legally translated into evidence and not upon further evidence that the prosecution may adduce in the trial.

As observed above, the prosecution appears to have collected some material against the petitioners, a substantial part of which is undoubtedly admissible in evidence. It is well settled that even a confessional statement, subject to the well-known legal restraints, is also admissible in evidence, though the evidentiary value thereof would depend upon facts and circumstances of each case.

The principles laid down by the Apex Court in **Suresh Budharmal Kalani**'s case (supra), thus, are distinguishable and are not attracted in the present case.

Dismissed.

January 17, 2007. [**Surya Kant**]
kadyan **Judge**